

9 COURT PROCEEDINGS

OVERVIEW OF CHAPTER CONTENTS

PRIMARY TOPICS COVERED IN THIS CHAPTER (READ ACROSS)

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- Disposition of a New Offense
- Original Adult Court Jurisdiction
- Psychotropic Medication/Mental Health Placements
- Guardianship
- Extension of Youth's Commitment
- Court-Ordered SJO Report
- Waiver of Juvenile Jurisdiction
- Placement in a Mental Health Facility
- Interview of Youth by Defense Attorney/Investigator

FORMS DISCUSSED IN THIS CHAPTER

- Order to Detain (DOC-1915)
- Department Order (DOC-1722a)
- Order to Produce and Return (Milwaukee County)
- Extension Report (DOC-1723)
- Sample Dispositional Report
- Cancellation of Order to Detain (DOC-1916)
- Release of Information (DOC-1163h)
- Order for Temporary Physical Custody (JD-1171)
- Petition for Extension (DOC-1707)
- Petition for Extension (Milwaukee) (DOC-2640)

NOTE: DOC forms discussed in this chapter are available in MyDOC or in JJIS. See tables listing all forms in front of CMM to determine where specific forms can be accessed. Wisconsin court forms may be accessed at www.wicourts.gov.

ORDER TO DETAIN PROCEDURES

ORDER TO DETAIN ISSUED TO DJC

At the time of the youth's admission to a JCI, the youth may have an "order to detain" issued by a court because of a pending charge. The order means that DJC lacks authority to discharge the youth from supervision into the community without notifying the holder of the detainer. The OOA notifies the security director of any existing detainers upon the youth's admission. The OOA marks the Social Services file [see Chapter 3] to notify staff that there is an existing detainer. The social worker must be aware of which youth on his or her caseload have detainers when making recommendations regarding transfer, release or discharge.

ORDER TO DETAIN ISSUED BY DJC

When a youth has a pending charge for which the youth must make a court appearance, the social worker must notify the Office Operations Associate (OOA) at least 72 hours prior to the youth's departure. The OOA completes and forwards the Order to Detain (DOC-1915) to the

Security Director, Supervising Youth Counselor's Office and to the sheriff's department in the county where the court proceedings are scheduled. A copy of the order to detain is filed in the youth's social services file. The detainer prevents the court from releasing a youth from DJC supervision so that the youth returns to the JCI. The DOC-1915 is only effective for the specified court proceeding. Following the conclusion of the proceedings and the youth's return to the JCI, the order to detain is canceled by the OOA.

EXTENSION OF YOUTH'S COMMITMENT

The district attorney, corporation counsel, youth, youth's parent(s)/guardian, legal custodian and others bound by the original Dispositional Order [see *Chapter 3*] may request the court to extend the period of time the youth remains under DOC supervision. [s. 938.365 (1m), Stats.]. A variety of situations may occur. For example, all parties involved may agree with a request for extension, DJC and the district attorney may be in agreement, the youth may object, or DJC may disagree with the district attorney's request for extension. The court reaches a decision based upon an extension hearing.

The JPRC members decide if a petition for extension should be filed for a youth in a JCI. The DJC agent and supervisor make the determination for a youth on state aftercare or on type 2 status.

PETITION FOR EXTENSION AND EXTENSION REPORT

Overview of DOC-1707 and DOC-1723

- When DJC petitions for an extension, the social worker or agent completes the **Court Petition** (DOC-1707) .
 - ✓ It is not available in JJIS and must be completed via MyDOC.
 - ✓ For Milwaukee County cases, only submit the cover page (DOC-2640), extension report and attachments.
- Social worker or agent prepares an **extension report** (DOC-1723) regardless of who requests the court for an extension. The DOC-1723 is completed in JJIS.

Extension Report as it Relates to the Petition

- In the majority of situations, the DJC **report supports the petition**.
- Occasionally, a DA pursues an extension request even though DJC does not believe it is necessary. In that case, the DJC extension report would not support the petition for an extension.
- Staff **person with case responsibility** for a youth writes an extension report regardless of the youth's location. For example, the agent writes the report for a youth under the agent's supervision even when the youth is on administrative detention or a sanction at a JCI.
- The Milwaukee County Liaison attends the initial hearing. The author of the report represents DJC in court proceedings in the event of a contest.

Hearings at Which Extension Requests are Heard

- **Extension Hearing Due to Expiration of Court Order**

Social worker or agent must be aware of the youth's expiration as indicated in JJIS. Staff must adhere to strict timelines regarding the initiation of a request for extension as well as the writing and submission of the extension report.

- **Dispositional Hearing**

In some cases, DJC may request a court to extend the youth's supervision on an existing order at the same time a court is conducting a dispositional hearing on a new offense. [see section below regarding dispositional hearings]

Initiating Request for Extension

- Social worker initiates the request for an extension with OJOR at least 4 months prior to the expiration of supervision. The social worker utilizes the JPRC process to reach a decision whether extension will be requested well in advance of the expiration date.
- A county or state agent follows timelines established by supervisors as to when to address the question of whether to request an extension.

Timelines for Writing and Submitting the Extension Report

- **Milwaukee County:** Social worker or agent with case responsibility writes the extension report **90 days** prior to the expiration date.
 - ✓ CLS/LHS: Social worker completes the report in JJIS and sends it to the OOA 70 days prior to expiration. The OOA forwards the report to the DJC liaison 63 days prior to the youth's expiration date. The DJC liaison is located at the Milwaukee County Children's Court Center.
 - ✓ MJTC and Agents—The social worker or agent completes the report in JJIS and sends it to the DJC liaison 63 days prior to the youth's expiration date.
- **Other counties:** Social worker or agent responsible for the case writes the extension report **60 days prior** to the expiration date.
 - ✓ CLS/LHS: social worker completes the report in JJIS and sends it to the OOA 49 days prior to expiration. The OOA sends to the Clerk of Courts in the appropriate county 42 days prior to the youth's expiration date.
 - ✓ MJTC and Agents: social worker or agent sends the extension report to the Clerk of Courts in the appropriate county 42 days prior to the youth's expiration date.

Length of an extension request

The time requested in a petition for extension should be based upon an assessment of the time the youth needs to successfully complete his or her JCI and/or community supervision program, the youth's age, and current expiration date. The **maximum extension request is for one year**.

- For example, a youth needs 3 months to complete the institution program, 3 months to complete the group home program, and could benefit from 3 months supervision once he or she returns home. Therefore, a request for an extension of 9 months would be reasonable.

Extension Past 17th Birthday

- **Issue:** The courts in Wisconsin differ in their interpretation of the law regarding extending supervision orders made after January 1, 1996, which expire on or after the youth's 17th birthday.
- **Some Courts Will Grant Extensions Beyond 17th Birthday**
 - ✓ Some courts will extend supervision past the 17th birthday for a youth with an existing order that expires on or after the 17th birthday when the request takes place prior to the 17th birthday.
 - ✓ In these types of cases, the request must be a petition for revision and extension, not just an extension request. In the request, DJC recommends that the court revise the existing Dispositional Order before the 17th birthday and then extend the Dispositional Order for one year, or whatever time period the youth should be extended.
 - ✓ These requests for revision and extension must be **heard and decided** by the court **prior to the youth's 17th birthday**.
 - ✓ In Milwaukee County, the district attorney frequently requests the court to extend the order until "the day before the 17th birthday" for youth whose order expires between 16 and 16.9 years of age. This permits the filing of a subsequent request for extension before the youth's 17th birthday. DJC's request should correspond with the district attorney's petition.
- **Some Courts Will Not Extend Past 17th Birthday:** Some courts interpret ch. 938, WI Stats., as not permitting them to extend supervision beyond an order that expires on or after the youth's 17th birthday.

Meeting Deadlines in Court

Extension reports must be completed by the required deadlines. DJC may lose supervision of a youth if a request for an extension and the report are not submitted to the court on time.

CONTENT OF EXTENSION REPORT

- Request for Extension Report (DOC-1723) must include **information required by s. 938.365 (2g), Stats.**
- Court cannot hear a request for extension without the required information.
- Extension report **summarizes the youth's case**; court can obtain detailed information from court records or during oral testimony.
- Information regarding financial obligations of youth including amount ordered and remaining balances.
- Report must contain **current information** as of the submission date. An attorney may object to a report containing outdated information and require the social worker or agent to write an addendum.
- Report should be **completed in JJIS**.

INSTRUCTIONS FOR SECTION 3 OF DOC-1723

- A. **Extent to which original ICP** [see *Chapter 6*] **is meeting objectives** (youth's adjustment), s. 938.365, Stats.: list the original ICP goals and objectives and any subsequent revisions to the goals and objectives including the revision date(s).

Discuss **JCI and field** progress. "Adjustment to placement" refers to DOC placement, not just field, institution or alternate care specific. A social worker should include youth's programs/services and progress in the community if he or she has been on community supervision. An agent should discuss JCI programs/services and progress.

- B. **Future Planning**: include potential for return to the parental home [refer to s. 938.365 (2g)(b)(2), Stats.]; refer to Permanency Plan if one has been developed.
- C. **Recommendation**: include length of extension requested, projected transfers for program involvement and completion, and/or release.
- D. **Attachments**: include in chronological order, copies of **all** Department Orders (DOC-1722a) excluding the comments and observations prepared by the OJOR reviewer. These attachments should cover the time period from admission to present or from date of prior extension to present.

See the **example Extension Report contained in ch. 29**, Sample Case.

OBTAIN RELEASE AUTHORIZATION

- Social worker or agent asks the youth to sign the Authorization For Disclosure of Non-Health Confidential Information (DOC-1163) and Authorization For Use and Disclosure of Protected Health Information (PHI) (DOC1163A) to authorize his or her court appointed defense attorney to review the youth's files.
- Social worker or agent explains to the youth that the defense attorney will need access to his or her file to properly represent the youth at the extension hearing especially when the youth objects to the request for extension.
- On the DOC-1163 and DOC-1163A in the "Information may be Released to," the social worker or agent write in "Court Appointed Defense Attorney."

DANE COUNTY PROCEDURES**Extension Packet Deadlines**

- Responsibilities of CLS/LHS social workers and the OOA
 - ✓ A social worker at CLS or LHS handling an extension submits an original set of documents, including the petition, extension report, and any attachments, to the OOA at least 49 days prior to the youth's expiration date. This allows the OOA the time needed to assemble and mail the documents to Dane County in a timely manner.
 - ✓ The OOA mails the required documents to Dane County a minimum of 42 days prior to the youth's expiration date.
 - ✓ CLS and LHS **social workers should not mail** any documents relating to an extension directly to any parties involved in the proceedings. Only the OOA should mail extension documents.
- Responsibilities of MJTC social workers and DJC agents

A social worker at MJTC handling an extension mails an original set of documents, including the petition, extension report, any attachments, and Department Orders (DOC-1722a), to Dane County a minimum of 42 days prior to the youth's expiration date.

- Extension packet for the court for more than one court case

DJC may request the court to extend the court commitment orders of a youth on more than one court case at the same extension hearing. If a youth was adjudicated delinquent on more than one case, more than one court case number would be involved. Therefore, the court may have multiple court case files for a youth. When a social worker or agent requests an extension in more than one case for a youth, the court must include all the necessary documents in each court case file.

Contents of an extension packet:

- Original petition includes: names and addresses of involved parties including the youth, youth's county or state agent, judge, district attorney, public defender, and youth's parents/guardian.
- All court cases associated with the youth's extension.
- Extension report
- Any attachments with the report
- Department Orders (DOC-1722a).

If this is the first petition for an extension for a youth, every signed Department Order since the youth's admission date will be included in the extension packet.

If it is the second petition or more, only include the signed Department Orders since the last petition in the packet.

An original set of the above documents must be provided to the court for filing into each court case file. For example, if the youth had five court cases for which the social worker is requesting an extension, five sets of the original documents must be provided to the court. One set includes the original petition with each of the five court cases listed for that youth, extension report, Department Orders (DOC-1722a), and any attachments.

- Extension Packet Assembly
 - ✓ The OOA at CLS and LHS assembles the extension packets, which may include typing any required documents that the social worker did not type, gathering Department Orders (DOC-1722a), etc., to be mailed to Dane County.
 - ✓ Social workers at MJTC and agents assemble their own extension packets and mail to Dane County.
 - ✓ The OOA or social worker/agent sends one original and seven copies of all documents for the court to distribute.
- Role of Court Personnel
 - ✓ File a set of the original documents into each court case file.
 - ✓ Distribute the copies to the involved parties listed on the petition.
- Address/Contact

- ✓ Clerk of Circuit Court Juvenile Division
Room 1000, Dane County Courthouse
215 S. Hamilton Street
Madison, WI 53703
- ✓ If social workers and agents have questions, they may contact the Court Manager, Dane County Clerk of Circuit Court at (608) 266-4311.

MILWAUKEE COUNTY PROCEDURES

Compliance Procedures

Social workers and agents preparing reports for Milwaukee County cases should be aware that the DJC liaison forwards a monthly list to Central Office, JCI superintendents, and field supervisors of completed reports indicating whether they were done in a timely manner.

Copies of Extension Report

- The OOA or the social worker/agent sends a total of 6 six copies (original and 5 copies) to the DJC liaison in Milwaukee.
- The original request and three copies must include the OJOR Department Order (DOC-1722A) with Comments and Observations.
- One copy of court orders relating to the case(s) for which the extension is being requested should be submitted along with the six copies.
- Include one copy of the completed DOC-1163 (see page 9:5), retain original for file.
- The court sends the youth and parent(s) a copy of the report.

DJC Liaison

A majority of DJC youth come from Milwaukee County. Social workers and agents should not directly contact attorneys, judges or other court personnel without first contacting the liaison.

Social workers and agents should work closely with the liaison during the court process. They share responsibility for representing the position of DJC regarding the petition as effectively as possible. The social worker or agent must **promptly inform** the liaison of the youth's location changes during any pending court process. It is the responsibility of the assigned Social Worker and/or Agent to contact the DJC Liaison one week prior to all scheduled court hearings to provide an update on youth and/or if DJC has a position, recommendation, concern, or stipulation. When a social worker or agent appears at a proceeding and the liaison does not, he or she informs the liaison of the outcome of the proceeding including court ruling, pending court dates, unusual incidents, or special requests from the Judge or other parties.

In addition, all court appearances and outcomes must be promptly chrono'd in JJIS.

Courtroom Procedures and Orders

Upon arrival at the Children's Court Center, the social worker or agent check in with the court clerk in the courtroom providing his or her own name, institution/agency represented and name of the case.

If possible, the social worker or agent discusses with the district attorney and the liaison the testimony that he or she will present at the proceeding. This interaction offers the parties the

opportunity to better coordinate the case. In cases where the youth objects to the extension and DJC supports the extension, social workers and agents should use caution in making out of court statements to the defense attorney.

Whenever a youth has been transported to court under an “Order to Produce and Return” and the youth will be returned to JCI, the liaison, social worker or agent, who is in attendance must complete a “Temporary Physical Custody Order” (example at end of chapter) at the conclusion of the court proceeding. The judge signs the temporary order to permit Milwaukee County Detention to hold the youth until he or she is picked up for return to a JCI. The forms are available in the courtrooms. In Milwaukee, there are two forms. One is a two page duplicate (Addendum to JD-1711). When the Judge signs the form, the Clerk retains the top sheet (white), the Deputy receives the next (yellow), and the next (pink) should be given to the Liaison after Court. The one page form (JD-1711) is retained by the Clerk.

At the conclusion of an initial appearance or a trial, the judge may issue an Order for Extension of Dispositional Order extending supervision of the youth. The court uses a standard order, which includes:

1. The court case number is in the very top section.
2. The date the court makes its finding in the next section. This section also includes the date of the original order that the court is extending.
3. The new expiration date is found in the bottom section.

COURT PROCESS IN GENERAL

Wisconsin Statutes govern the legal procedures that must be followed to extend a youth’s commitment. A judge may not issue an extension order without a court hearing. The exact nature of court proceedings vary case by case and county by county. Inexperienced social workers and agents should consult with experienced staff to learn about procedures in the county where the extension hearing will be heard. The responsibilities of the social worker or agent before, during and after court proceedings depend upon the practices of a particular county.

BE PREPARED WHEN YOU GO TO COURT. The social worker or agent should carefully review the extension report and other pertinent information thoroughly before going to court. Having maintained complete and accurate chronological notes will be of great benefit for preparing for court.

He or she should discuss any questions or concerns with a supervisor or DJC liaison (Milwaukee County). It is also advisable to discuss the case and testimony with the assigned district attorney prior to the hearing.

The JCI needs an **Order to Produce from the court** to release a youth from an institution so that the sheriff can transport the youth to court. The OOA receives the “Order to Produce and Return” and notifies all appropriate parties of the time and date of the court proceeding. An “Order to Produce and Return” is not needed for youth released to state or county supervision.

TYPES OF HEARINGS

The following court procedures are based on Milwaukee County; however, most courts follow similar procedures.

Initial Appearance

- This court proceeding takes place **before a judge** and may include the district attorney, defense attorney, DJC liaison (Milwaukee County), social worker/agent (other than Milwaukee county or if Milwaukee County judge orders), youth and youth's parent(s). The liaison or social worker/agent represents DJC at this proceeding.
- Person bringing the action, generally the district attorney, presents the petition for extension to the court.
- Youth may stipulate (agree) to the extension or object to the extension.
 - ✓ **Stipulation Reached.** The court enters a new order extending the court's jurisdiction over the youth until the date stated on the record. No further court proceedings regarding the petition for extension take place.
 - ✓ **Youth Objects.** When the youth objects to the extension, the proceeding becomes a contested matter. The court schedules a hearing (trial) date. The liaison (Milwaukee) notifies the social worker or agent of the date and time of the hearing so that he or she will be available to testify.
- If it appears that the court proceedings will not be completed prior to the expiration of the original court order, the statutes at s. 938.365 (6), Stats., permit the court to extend the order for a period not to exceed 30 days. The judge signs an order with the new expiration date.

Extension Hearing

- **Stipulation.** In some cases, the attorneys reach a stipulation (agreement) after the initial appearance and before the trial date. The district attorney, youth, youth's parent(s) and DJC liaison appear. Depending on the case, the social worker or agent may appear.

The judge reviews the stipulation reached by the defense attorney and district attorney. He or she also verifies the youth's agreement with the stipulation and advises the youth of his or her legal rights. If the judge approves the stipulation, the court issues a new court order with a revised expiration date.
- **Contested hearing.** The defense attorney, district attorney, youth, youth's parent(s), DJC liaison, and the social worker or agent appear. The judge calls witnesses and takes testimony under oath. When DJC concurs with the petition for extension, the social worker or agent is the primary witness for the petitioner. After hearing all the evidence, the judge makes the decision whether to extend the youth's commitment. If the youth's commitment is extended, the court issues a new court order with a revised expiration date.
- **Continuances:** At any point the court may continue the proceedings to another date. In Milwaukee if the liaison is not present, the social worker or agent must notify the liaison of any new court dates.

COURT TESTIMONY

Prior to the hearing, **do not engage in conversations with opposing counsel outside the presence of the attorney representing the position of DJC.**

A person testifying for the first time may find it beneficial to consult with his or her supervisor prior to going to court. **Testifying in court can be an intimidating experience. Some suggestions for testifying effectively include:**

- Tell the truth; do not attempt to manipulate or hide facts related to the case.

- Do not be afraid to testify to information even if you believe it may not support the position of DJC on the extension.
- Remember your role as a witness is to provide facts. The attorneys explain the evidence to the judge or jury.
- As a witness, you advocate on behalf of the DJC position and refrain from testifying to your personal opinion.
- Speak distinctly so the court reporter and others can hear the testimony.
- Look at the judge and/or jury when testifying.
- Always ask a questioning attorney to repeat any question you do not understand.
- Answer the questions concisely; do not offer additional information.
- Do not use any slang in answering questions (e.g., say “yes” rather than “yah”).
- Listen carefully before agreeing that a statement made by an attorney reflects your testimony.
- If an attorney makes an objection, stop speaking and wait for the judge to make a ruling. Ask questions if you do not understand the ruling.
- In some situations, it may be appropriate to ask the judge for permission to consult written records to refresh memory. You may not read from your notes unless the document has been marked as an exhibit.
- At times a cross-examination may feel like a personal attack. Realize that this is how the adversarial system works.
- Maintain a professional demeanor at all times.
- Do not argue with attorneys or judges.
- Do not become sarcastic no matter how offensively an attorney may be treating you.
- If a jury is hearing the case, remember they see and hear everything that happens in the courtroom. In making a decision, they will consider everything that they have observed.
- Neither the DA nor the defense attorney is your lawyer. They represent the interests of “the people or the subject of the petition.”

The content of the **extension report should form the basis for the oral testimony**. The social worker or agent represents the position of DJC regarding the extension request. He or she is obligated to testify consistent with the position of DJC even if his or her personal opinion differs. If, at any time, a social worker or agent offers his or her personal opinion, he or she makes that clear to the court.

NOTIFICATION OF EXTENSION OF YOUTH’S COMMITMENT

Social Worker Attends Extension Hearing

If the court grants an extension:

1. The social worker immediately notifies the OOA of the youth’s new expiration date.
2. The OOA accepts the word of the social worker pending receipt of the Order for Extension of Dispositional Order.
3. The OOA immediately enters the new expiration date in JJIS.

4. The OOA completes an amended Face Sheet (DOC-1701) to reflect the new expiration date and place in the youth's SS file. [see Chapter 3]
5. The OOA notifies the community unit program assistant that the new expiration date has been entered into JJIS.
6. When the OOA receives the Order for Extension of Dispositional Order, the date on the order will be compared with the date in JJIS and corrected if necessary.
7. If corrections are necessary, the OOA completes steps 4 and 5.

Agent Attends Extension Hearing

If the court grants an extension:

1. The agent immediately notifies the unit program assistant of the youth's new expiration date.
2. The program assistant accepts the word of the agent pending receipt of the Order for Extension of Dispositional Order.
3. The program assistant immediately enters the new expiration date in JJIS.
4. The program assistant completes an amended Face Sheet (DOC-1701) [see Chapter 3] to reflect the new expiration date and place in the youth's SS file. [see Chapter 3]
5. The program assistant immediately notifies the OOA that the new expiration date has been entered into JJIS. This is extremely important if the youth is at the JCI for a sanction or administrative detention [see Chapter 20] at the time of the extension hearing.
6. When the agent receives the Order for Extension of Dispositional Order, the program assistant compares the date on the order with the date in JJIS and corrects it if necessary.
7. If corrections are necessary, the program assistant completes steps 4 and 5.

DISPOSITION ON A NEW OFFENSE

As with a petition for an extension, certain court procedures must be followed when a youth is charged with committing a new offense. Inexperienced social workers and agents should consult with experienced staff to learn about procedures in the applicable county. The following court **procedures apply to Milwaukee County, but should be similar throughout the state.**

TYPES OF HEARINGS

Detention Hearing

A court commissioner conducts a detention hearing regarding the new offense. DJC must advise the court as to whether a youth in the community will be returned to a JCI. The social worker or agent does not attend this hearing. The Milwaukee County Probation Department liaison notifies DJC of the outcome of the hearing.

Plea Hearing

The DJC liaison (Milwaukee) represents DJC at the plea hearing. The social worker/agent appears in other counties. If the offense is not one automatically heard in adult court, a petition to waive a youth to adult court may be filed at this time. If a petition to waive the youth to adult court is not filed, the youth (via his or her attorney) enters a plea to the new charge.

Disposition

Generally, the liaison (Milwaukee) represents DJC based upon the Dispositional Report written by the social worker or agent. In other counties, the social worker or agent appears and testifies. The judge takes testimony and determines whether the youth committed the offense. The judge may then proceed to disposition. The judge may also set another date for the disposition.

DISPOSITIONAL REPORT UNDER S. 938.33 (1), STATS.

When Report Is Required

The court may require a social worker or agent to write a Dispositional Report when a youth in a JCI has a **pending court case for an offense other than the committing offense or when a youth on correctional supervision in the community commits a new offense.**

Responsibility for Preparing the Dispositional Report

When a youth has been in the community 45 days or more, and a Dispositional Report is required, the Agent will prepare the report. The Social Worker will forward to the agent any updated behavioral information in a timely manner. If the youth was in the community less than 45 days, the Social Worker will be responsible for preparing the report. The Agent will forward to the Social Worker details of the brief community placement in a timely manner.

Submission of Report

The report should be submitted to the DJC liaison in Milwaukee County or the clerk of courts for other counties. Report must **reference the pending case number**, not the one for which the youth is currently placed under supervision of DJC.

Purpose of Report

The judge uses the report to assist in determining the disposition of the youth. Section 938.33, Stats., describes the required content of the report.

If DJC is requesting an extension of the existing order as part of the dispositional hearing, see extension report section above

Extension Request at Dispositional Hearing

In some cases, DJC may request a court to extend the youth's supervision on an existing order at the same time a court is conducting a dispositional hearing on a new offense. [*see section above regarding extension reports*]

At the hearing, the extension request may be used as a way to settle the new case in one of the two following ways:

- Youth stipulates (agrees) to an extension of the existing court commitment and the court dismisses the new charge.
- DJC withdraws the extension request, youth stipulates to the new charge and the court uses the extension report in lieu of a dispositional report.

- Current restitution owed must be considered prior to agreement for dismissal of extension request.

Contents of Dispositional Report

- **Social history** that includes court history, prior services received by youth, brief description of all treatment programs provided to youth while under DJC supervision (JCI and community), and transfers between JCI's, and JCI's and community.
- Recommended **plan of rehabilitation or treatment** and care that includes less restrictive alternatives considered and/or tried previously, and why they were not appropriate/successful.
- Specific **services or continuum of services** recommended for the youth and family, entity that will provide services and identify entity that will coordinate youth's plan.
- Statement of **objectives of plan** including desired behavior changes and the academic, social and vocational skills needed by the youth.
- Plan for provision of **educational services**.
- Statement of **availability of treatment or other programs**, and availability of funds to pay for them when DJC recommends the issuance of a court order requiring youth's family member(s) to participate in mental health treatment, anger management, counseling or parent training/education.
- **DJC best practice:** include **information regarding restitution** ordered under the current commitment order requesting that the new Dispositional Order include a statement requiring the youth to continue to pay on the prior order. This authorizes DJC to continue collecting for restitution ordered under the prior commitment order even after it reaches expiration.
 - ✓ For example, a youth is at a JCI with an order expiring 10/5/02 that includes victim restitution in the amount of \$150.00. Youth has paid \$75.00 on that order when he or she commits a new offense for which he or she is adjudicated delinquent on 7/7/02.
 - ✓ The dispositional report should state that the youth has an existing restitution order with a balance of \$75.00 and request that the court on the new dispositional order require the youth to pay that balance in addition to any restitution ordered for the new offense.
 - ✓ If the new order does not include the prior restitution, DJC loses authority to continue collecting the balance as of 10/5/02 unless DJC obtains an extension of that order prior to 10/5/02.
- If DJC is requesting an extension of the existing order as part of the dispositional hearing, see extension report section above.



Milwaukee County Format

- A sample completed Dispositional Report is included at the end of this chapter. That format should be followed for Milwaukee County cases.
- Primary sections include:

- I. **Social history:** summary of court contacts; services provided; placements within DOC; initial and revised ICP goals; summary of programs completed; significant events (major penalties, release to aftercare; administrative transfer to type 2 status; revocations; sanctions; type 2 termination, etc.)
- II. **Recommended plan** of rehabilitation/treatment: discuss alternatives considered; is DOC placement the only suitable recommendation?; address severity of pending charges; public safety issues; availability of placement in home, etc.
- III. **Specific services** recommended
- IV. **ICP** status: progress on current goals/objectives
- V. **Plan for recommended services:** length of time needed for services; should the option of the dispositional order expiring the day before 17th birthday be recommended or should order be until the 18th birthday?; by what age can youth complete program such as AODA, HSED, etc?
- VI. Recommended **mental health treatment** or other counseling: is youth on psychotropic medication, why, proper consents obtained; prior counseling history

SJO REPORT

When the court orders DJC to prepare a SJO report, DJC reviews the Dispositional Report described above and analyzes the juvenile's appropriateness for placement in one the following:

- Serious Juvenile Offender Program (SJOP) [see Chapter 7]
- Secured correctional facility (JCI), but not in SJOP
- Other out-of-home (alternate care) placements
- Parent's home with supervision or community based programming

ORIGINAL ADULT COURT JURISDICTION

A youth who is 17 years old when she or he committed an alleged offense is automatically tried in adult court. In accordance with s. 938.183 (1), Stats., the adult criminal court also has original jurisdiction when a youth is alleged to have committed one of the following offenses:

Youth aged 10 years and older [s.938.183(1)(am)]

- s. 940.01, Stats., 1st degree intentional homicide, committing or attempting
- s. 940.02, Stats., 1st degree reckless homicide, committing
- s. 940.05, Stats., 2nd degree intentional homicide, committing

Youth in a JCI [s.938.183(1)(am)]

- s. 940.20 (1), Stats., Battery by prisoners that cause bodily harm to another person
- s. 946.43, Stats., Assaults by prisoners that place another person in fear of bodily harm, confine or restrain another person

All youth age 10-16 [s.938.183(1)(b) or (c)]

- Youth alleged to have committed a criminal offense when the youth was previously convicted in adult court or a criminal prosecution is proceeding

GROUND FOR WAIVER OF JUVENILE JURISDICTION

Under s. 938.18, Stats., a juvenile, DA or judge may propose to waive the juvenile, 16 years or younger, to adult court. The waiver may be requested in the following situations:

Juvenile aged 14 through 16 years alleged to have violated the following:

- s. 940.03, Stats., Felony Murder
- s. 940.06, Stats., Second-degree reckless homicide
- s. 940.225 (1) or (2), Stats., 1st or 2nd sexual assault
- s. 940.305 Stats., Taking hostages
- s. 940.31, Stats., Kidnapping
- s. 943.10 (2), Stats., Burglary: while armed, use of explosive, commits battery
- s. 943.32 (2), Stats., Robbery: use or threat of dangerous weapon
- s. 961.41 (1), Stats., Uniform controlled substances act: manufactured, distribution or delivery.
- If the juvenile is alleged to have violated any state criminal law on or after his or her 15th birthday.
- If the juvenile on or after his or her 14th birthday is alleged to have committed, at the request of a criminal gang, an offense that would be a felony, if committed by an adult, under chapters 939-948 or 961, Stats.

Waiver Report

The court may designate DOC to write a report analyzing the criteria described in s. 938.18 (5), Stats.

- Personality and prior record
- Whether the juvenile is mentally ill or developmentally disabled
- Previous waivers to adult court
- Whether prior conviction/adjudication has involved serious bodily injury
- Juvenile's motives and attitudes
- Physical and mental maturity
- Pattern of living
- Prior offenses—type and seriousness of offense
- Prior treatment history
- Potential for responding to treatment
- Adequacy and suitability of facilities, services and treatment available in the juvenile system, including placement in the Serious Juvenile Offender Program.

The social worker or agent consults with his or her supervisor to determine DJC's official position. A social worker or agent representing DJC must present DJC's position to the court. If the court waives a youth into adult court, the social worker or agent must notify the security director immediately so a detainer can be issued based upon the existing commitment order.

PSYCHOTROPIC MEDICATION

DEFINITION OF PSYCHOTROPIC MEDICATION

Psychotropic medications are medications prescribed by a physician used to influence mental functioning, behavior or experience. Examples include anti-psychotics, antidepressants, anti-anxiety agents, sedative hypnotics, and psychomotor stimulants. The law treats psychotropic medications differently than other medications.

CONSENT FOR PSYCHOTROPIC MEDICATION

Non-psychotropic Medications and Medical Procedures

A parent/guardian has legal authority to consent for administration of other-than-psychotropic medications and for medical treatment until the son or daughter is 18 years old. The situation differs when the medication is for treatment of a mental illness.

Youth Under 14 Years of Age

A parent/guardian may consent to psychotropic medications for a son or daughter under the age of 14 years.

Youth Aged 14 Through 17 Years

Juvenile and a parent/guardian must consent to the administration of psychotropic medications when the juvenile reaches the age of 14 years.

- **Youth Objects**

If a 14-17-year-old objects to the medication, someone would have to obtain a court order under ch. 51, Stats., Mental Health Act, to force the juvenile to take psychotropic medication.

In some cases, a DJC **youth aged 14-17 years agrees** that taking psychotropics is in his or her best interests, but the **consent of a parent/guardian cannot be obtained** because the parent/guardian refuses to consent or cannot be located, or no adult has legal custody. The Juvenile Justice Code at s. 938.505 (2), Stats., provides a court procedure whereby a **petition can be filed in court** to obtain court authorization for the psychotropics.

In **Milwaukee County**, the presiding judge will sign off on a consent form provided by JCI Health Services staff. It is **Form 3401A-K**. This will include verification of efforts to locate the guardian, or the guardian's refusal to consent. It will also document letters sent to the guardian. Additionally, a letter from the prescribing psychiatrist should accompany the request and indicate why there is a need for the medication, and what medication will be prescribed. A formal petition is not required. Staff should contact the Milwaukee County Children's Court Liaison for assistance in processing a request to the presiding judge.

Youth Aged 18 Years and Older

The youth has sole authority to consent unless he or she has been placed under a legal guardianship pursuant to ch. 880, WI Stats., as being legally incompetent.

PREPARING TO FILE A PETITION TO THE COURT

The procedure under s. 938.505 (2), Stats., requires that **the juvenile 14 years or older under DJC supervision cannot be residing in his or her parental home.**

Documents Required

- Documentation that DJC has been **unable to obtain consent from the parent/guardian** due to that person's refusal to consent, inability to locate the parent/guardian, or lack of an adult with legal custody. This includes a description of efforts made such as telephone calls, letters, visits to the home, etc. Dates and name of person making the contact should be documented.
- Statement that the juvenile is **at least 14 years of age and mentally capable of consenting** to the psychotropic medication.
- Statement that the **juvenile voluntarily consents** to the medication. No threats or undue pressure may be placed upon the juvenile. Ask the juvenile to sign a consent to take the medication.
- Recommendation from a licensed physician that **psychotropic medication is appropriate** for the juvenile and that it is the least restrictive treatment consistent with the juvenile's needs.
- Current or last known **address of parent/guardian** so that the he or she can be served with a legal notice regarding the petition.
- **NOTE:** DJC may request the attorney to **ask the court to temporarily approve the psychotropic medication for not more than 10 days** after the date of the filing of the petition. The hearing must be held within 10 days.

Submission of Documentation

The clinician/social worker/agent or other designated staff person gathers the following information and forwards it to one of the following:

- Court liaison in Milwaukee County
- District Attorney/Corporation Counsel in a county wherein one of them agrees to file the petition
- DJC Central Office when the DOC Office of Legal Counsel files the petition

DJC CENTRAL OFFICE PROCEDURES

For other than a Milwaukee County case or a case in another county in which the District Attorney/Corporation Counsel files the petition, DJC staff requesting the petition should **contact an Administrative Policy Advisor in CO.**

Policy advisor reviews the documentation and contacts the appropriate attorney in the DOC Office of Legal Counsel.

The **DOC attorney assigned to the case files the necessary paperwork with the court** and communicates with the DJC staff involved with the youth regarding the court proceeding.

PLACEMENT IN A MENTAL HEALTH FACILITY

STATE MENTAL HEALTH INSTITUTES

Winnebago Mental Health Institute and Mendota Mental Health Institute are the state mental health institutes for treating psychiatric illnesses. An individual may be admitted to one of those facilities as a voluntary or involuntary patient. Chapter 51, Mental Health Act, of the Wisconsin Statutes governs procedures for both types of placements. All services for youth have been consolidated at MMHI.

MJTC

The Mendota Juvenile Treatment Center (MJTC) is a separate unit from MMHI as a whole. When a clinician thinks that a male youth at LHS would benefit from transfer to MJTC, he or she follows the procedures for inter-institution transfer. [see Chapters 7 & 10] Chapter 51 proceedings are not required for placement at MJTC.

VOLUNTARY PLACEMENT IN WMHI

If a youth's mental health needs cannot be met by DJC or MJTC programming, a clinician may recommend placement in WMHI. The parent/guardian of a juvenile under the age of 18 years has legal authority to consent to voluntary placement of his or her son or daughter. In the case of a youth age 14-17, while the application for admission can be initiated by the parent alone, the youth has the right to object to the placement and request a hearing be held to determine the appropriateness of the admission. A parent has no legal authority when the son or daughter becomes 18 years old unless a court has appointed the parent (or other adult) to be a legal guardian due to the individual's legal mental incompetence under ch. 880, Stats., Guardians and Wards.

WMHI staff must agree with the DJC recommendation that the youth be admitted. Historically, DJC has transported a youth to a facility and had to immediately, or within 72 hours, return the youth to a JCI.

INVOLUNTARY PLACEMENT IN WMHI

If a clinician believes that a youth needs an involuntary placement at WMHI, he or she follows the procedures under s. 51.35 (3)(e), Stats., Transfer of Certain Juveniles from Secured Juvenile Facilities, s. 51.20, Stats., Involuntary Commitment for Treatment, or s. 51.15, Stats., Emergency Detention.

In cases wherein legal assistance from Office of Legal Counsel is needed to initiate the proceedings, the clinician or other designated staff contacts Central Office, Administrative Policy Advisor, who coordinates with OLC.

GUARDIANSHIP

MEDICAL CARE

Authority of Parent/Guardian

For general medical purposes, a **parent/guardian has legal authority to consent to medical treatment for his or her son or daughter until the age of 18 years of age.** When the son or

daughter becomes 18 years old, the parent (or other adult) has no authority unless appointed by a court to be the individual's guardian under ch. 880, Stats., Guardians and Wards.

Authority of Health Care Agent

If an individual aged 18 years or older has executed a Power of Attorney for Health Care that has been activated, the named health care agent has authority to make medical decisions.

Procedures When Unable to Obtain Proper Consent

- Circumstances Requiring a Guardian
 - ✓ If a juvenile under DJC supervision requires a medical procedure and consent from a parent/guardian cannot be obtained, it may be necessary to file a petition for the appointment of a legal guardian to provide the consent. This would not be required in a life threatening situation.
 - ✓ If an individual aged 18 years or older does not consent to medical treatment and staff believes that the individual is mentally incompetent, a petition could be filed.
- Contact Persons
 - ✓ In Milwaukee County, DJC staff first contacts the court liaison to discuss the case.
 - ✓ For other counties, JCI or community supervision staff contacts DJC Central Office, Policy and Grants Coordinator, to discuss the facts of a case in which guardianship may be required. If the decision to proceed is made, CO will work with the referring staff to compile the information needed by DOC Office of Legal Counsel. In a case of a serious medical condition, a petition for temporary guardianship can be filed.

GUARDIAN FOR OTHER PURPOSES

Sometimes, the consent of a parent/guardian is needed for other than medical reasons, but DJC cannot obtain the consent. For example, some alternate care placements require the consent of a parent/guardian prior to admission to the facility. Again, DJC staff contacts the court liaison for Milwaukee County cases and DJC Central Office, Policy and Grants Coordinator, for other counties.

INTERVIEW OF A YOUTH BY A DEFENSE ATTORNEY OR INVESTIGATOR

RESPONSIBILITIES OF GATEHOUSE

In most cases, the Gatehouse should be aware ahead of time of the arrival of an attorney/investigator wishing to interview a youth because he or she has made an appointment for the interview. Occasionally, an attorney or investigator may arrive without an appointment.

Upon Arrival of Attorney/Investigator

- Follow Entrance Procedures contained in SIMP 11.
- Request written proof of the court appointment of the attorney.
 - ✓ Generally, document will be a court order appointing the attorney to represent the youth.
 - ✓ A court order specifically granting the attorney/investigator access to a youth or subpoena is not required, but can accepted as granting authority for the person to interview the youth.
 - ✓ If the individual is an investigator, ask for proof that he or she works for the attorney.

- Ask for name(s) of the youth to be interviewed; youth may be a defendant, witness or alleged victim.
- Gatehouse staff may state whether or not the youth is present on the grounds at that time for the interview (individual requesting the interview knows the youth is a resident of the JCI).
- Inform the appropriate staff member that the individual wishing to interview the youth is at the Gatehouse and state the nature of the documentation provided by the attorney/investigator.

Youth Refusal to Participate in Interview

- If required by institution policy, Gatehouse staff should contact a supervisor upon receiving a call stating that the youth has declined to participate in the interview.
- If required by institution policy, a supervisor informs the attorney/investigator of the youth's decision.
- If the involvement of a supervisor is not required by institution policy, the Gatehouse informs the attorney/investigator of the youth's refusal to be interviewed.

SOCIAL WORKER, YOUTH COUNSELOR OR OTHER DESIGNATED DJC STAFF**Attorney/Investigator Schedules an Interview Appointment**

- Inform the youth of the interview appointment explaining the identity of the person wishing to interview him or her, and the reason(s) for the interview.
- Inform the youth that he or she has the legal right to refuse to speak with the attorney/investigator, to answer only the questions he or she wishes to answer, and to end an interview at anytime.
- Explain to the youth that he or she may ask a staff member to be present during the interview, but that the interview can be conducted without a staff member present.
- Do not attempt to influence the youth's decision as to whether or not to participate in the interview.
- Inform the attorney/investigator if the youth states that he or she will not participate in an interview.

ATTORNEY/INVESTIGATOR ARRIVES AT THE JCI

- Tell the youth that the attorney/investigator has arrived for the scheduled interview and verify that he or she agrees to see the attorney/investigator.
 - ✓ If the attorney/investigator arrives without having scheduled an appointment, inform the youth of information described in the above subsection.
- Remind the youth that he or she has the legal right to refuse to speak with the attorney/investigator, to answer only the questions he or she wishes to answer, and to end an interview at anytime.
 - ✓ This may be accomplished either outside the presence of or in the presence of the attorney/investigator.
- Remind the youth that he or she has the right to ask a staff member to be present during the interview, but that the interview can be conducted without a staff member present.

- Staff should not attempt to influence the youth's decision as to whether or not to participate in the interview.

Youth refuses to participate in interview

- If a youth refuses to participate in the interview outside of the presence of the attorney/investigator, the staff member shall inform the Gatehouse of the youth's decision.
- If a youth refuses to participate in the interview in the presence of the attorney/investigator or wishes to terminate an interview, the youth shall be returned to his or her living unit or assigned program location.

ORDER TO PRODUCE AND RETURN (SAMPLE FROM MILWAUKEE COUNTY)

ORDER TO PRODUCE AND RETURN		2491
CASE NAME _____		
CASE NUMBER _____	D.O.B. _____	
PRODUCE (NAME) _____		
FROM _____		
TO _____	BRANCH _____	
TO BE PRODUCED		
DATE _____	TIME _____	
REMARKS _____		

STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY IN THE INTEREST OF _____ <div style="text-align: center;">Name</div> _____ <div style="text-align: center;">Date of Birth</div>	<div style="text-align: center;"> Order for Temporary Physical Custody <input type="checkbox"/> Secure <input type="checkbox"/> Nonsecure </div> <div style="text-align: center;">Case No. _____</div>
--	---

For Official Use

A request for temporary physical custody has been filed with the court. A hearing for temporary physical custody was held on _____, which is the effective date of this order.

THE COURT FINDS the child/juvenile is in the jurisdiction of this court and probable cause exists to believe that the:

- ☐ 1. Juvenile will commit injury to person or property of others.
- ☐ 2. Child/juvenile will ☐ cause injury to self. ☐ be subject to injury by others.
- ☐ 3. Parent, guardian, legal custodian or other responsible adult is ☐ neglecting ☐ refusing ☐ unable ☐ unavailable to provide adequate supervision and care.
- ☐ 4. Child/juvenile will run away or be taken away, making the child/juvenile unavailable for further court proceedings.
- ☐ 5. Child/juvenile is not subject to the federal Indian Child Welfare Act.
- ☐ 6. Parent has relinquished custody of the child.

For secure custody, the court further finds that probable cause exists to believe that:

- ☐ 1. The juvenile has committed a delinquent act and there is a substantial risk of ☐ physical harm to another. ☐ running away.
- ☐ 2. The juvenile is a ☐ fugitive from another state ☐ runaway from a secure correctional facility, and there has been no reasonable opportunity to return the juvenile.
- ☐ 3. A protective order has been issued and the child/juvenile consents in writing to the custody.
- ☐ 4. The child/juvenile has run away or committed a delinquent act while in nonsecure custody.
- ☐ 5. The juvenile is alleged/adjudicated delinquent and is a runaway from another county and would run away from nonsecure custody.
- ☐ 6. The juvenile is subject to adult criminal court jurisdiction and is under 15 years of age.

For secure custody in a jail, the court further finds that:

- ☐ 1. No other secure detention facility approved by DOC or the county is available.
- ☐ 2. The juvenile presents a substantial risk of physical harm to others in the secure detention facility.

For all custody outside of the home, the court further finds that:

1. Continuation of residence in the home at this time is contrary to the child's/juvenile's welfare because:

2. Reasonable efforts to prevent removal and return child/juvenile safely home were:

(Complete one of the following.)

- ☐ made by the department or agency responsible for providing services in the following manner:

- ☐ not possible due to the following emergency situation:

Order for Temporary Physical Custody – Secure/Non-Secure

Page 2 of 2

Case No. _____

☐ not required under §§48.355(2d) and 938.355(2d) because: _____☐ required, but good cause has been shown why sufficient information is not available to enable the court to make the necessary findings. This hearing is continued until (date): _____

not to exceed 5 days

☐ required, but the department or agency responsible for providing services failed to make reasonable efforts.

3. As to the department or agency recommendation:

☐ a. The placement location recommended by the department or agency is adopted.

OR

☐ b. After giving bona fide consideration to the recommendations of the department or agency and all parties, the placement location recommended is not adopted.

THE COURT ORDERS:

☐ 1a. The child/juvenile be held in temporary secure custody at: _____

OR

☐ 1b. The child/juvenile be held in temporary nonsecure custody at: _____☐ 2. While in a nonsecure placement above, the child/juvenile shall also be monitored by an electronic monitoring system.☐ 3. Other conditions of custody: _____☐ 4. The parent(s)/guardian shall contribute toward the expenses of custody/services in the amount of☐ \$ _____☐ to be determined by (agency): _____

5. Transportation to the placement and any return to court shall be provided by: _____

6. The next hearing date is _____ at _____ ☐ a.m. ☐ p.m.☐ 7. The petition for temporary physical custody is denied.

Name and Address of Placement: _____

Distribution:

1. Original - Court
2. Placement Facility
3. Child/Juvenile/Parents/Attorneys
4. Social Worker/Intake Worker

BY THE COURT:

Circuit Court Judge/Circuit Court Commissioner_____
Name Printed or Typed_____
Date

STATE OF WISCONSIN, CIRCUIT COURT, Milwaukee COUNTY

For Official Use

IN THE INTEREST OF

Order for Temporary
Physical CustodyEXAMPLE

JOHN DOE
 Name
/ ## / ##
 Date of Birth

☒ Secure
☐ Nonsecure
Case No. ## JV #####

A request for temporary physical custody has been filed with the court. A hearing for temporary physical custody was held on date of hearing, which is the effective date of this order.

THE COURT FINDS the child/juvenile is in the jurisdiction of this court and probable cause exists to believe that the:

- ☒ 1. Juvenile will commit injury to person or property of others.
- ☐ 2. Child/juvenile will ☐ cause injury to self. ☐ be subject to injury by others.
- ☒ 3. Parent, guardian, legal custodian or other responsible adult is
☐ neglecting ☐ refusing ☒ unable ☐ unavailable to provide adequate supervision and care.
- ☐ 4. Child/juvenile will run away or be taken away, making the child/juvenile unavailable for further court proceedings.
- ☒ 5. Child/juvenile is not subject to the federal Indian Child Welfare Act.
- ☐ 6. Parent has relinquished custody of the child.

For secure custody, the court further finds that probable cause exists to believe that:

- ☒ 1. The juvenile has committed a delinquent act and there is a substantial risk of
☐ physical harm to another. ☒ running away.
- ☐ 2. The juvenile is a ☐ fugitive from another state ☐ runaway from a secure correctional facility, and there has been no reasonable opportunity to return the juvenile.
- ☐ 3. A protective order has been issued and the child/juvenile consents in writing to the custody.
- ☐ 4. The child/juvenile has run away or committed a delinquent act while in nonsecure custody.
- ☐ 5. The juvenile is alleged/adjudicated delinquent and is a runaway from another county and would run away from nonsecure custody.
- ☐ 6. The juvenile is subject to adult criminal court jurisdiction and is under 15 years of age.

For secure custody in a jail, the court further finds that:

- ☐ 1. No other secure detention facility approved by DOC or the county is available.
- ☐ 2. The juvenile presents a substantial risk of physical harm to others in the secure detention facility.

For all custody outside of the home, the court further finds that:

1. Continuation of residence in the home at this time is contrary to the child's/juvenile's welfare because:

Ongoing treatment needs; alleged new delinquency

2. Reasonable efforts to prevent removal and return child/juvenile safely home were:

(Complete one of the following.)

- ☒ made by the department or agency responsible for providing services in the following manner:

DOC - (include all placements) - ie - EAS, NORRIS, Home, MJTC

- ☐ not possible due to the following emergency situation:

Order for Temporary Physical Custody – Secure/Non-Secure

Page 2 of 2

Case No. ## JV ### ##

☐ not required under §§48.355(2d) and 938.355(2d) because: _____

☐ required, but good cause has been shown why sufficient information is not available to enable the court to make the necessary findings. This hearing is continued until (date): _____ not to exceed 5 days

☐ required, but the department or agency responsible for providing services failed to make reasonable efforts.

3. As to the department or agency recommendation:

☒ a. The placement location recommended by the department or agency is adopted.

OR

☐ b. After giving bona fide consideration to the recommendations of the department or agency and all parties, the placement location recommended is not adopted.

THE COURT ORDERS:

☒ 1a. The child/juvenile be held in temporary **secure custody** at:

Detention

OR

☐ 1b. The child/juvenile be held in temporary **nonsecure custody** at:

☐ 2. While in a nonsecure placement above, the child/juvenile shall also be monitored by an electronic monitoring system.

☐ 3. Other conditions of custody: _____

☐ 4. The parent(s)/guardian shall contribute toward the expenses of custody/services in the amount of

☐ \$ _____

☐ to be determined by (agency): _____

5. Transportation to the placement and any return to court shall be provided by:

Sheriff or DOC

(6) The next hearing date is as appropriate at _____ ☐ a.m. ☐ p.m.

☐ 7. The petition for temporary physical custody is denied.

Name and Address of Placement:

in Milwaukee - Detention - 10201 W Watertown Plank Rd
Milwaukee WI 53226

Distribution:

1. Original - Court
2. Placement Facility
3. Child/Juvenile/Parents/Attorneys
4. Social Worker/Intake Worker

BY THE COURT:

Circuit Court Judge/Circuit Court Commissioner

Name Printed or Typed

Date

STATE OF WISCONSIN, CIRCUIT COURT-CHILDREN'S DIVISION

MILWAUKEE COUNTY CHILDREN'S COURT CENTER**ORDER FOR TEMPORARY PHYSICAL CUSTODY**☐ SECURE☐ NON-SECURE

IN THE INTEREST OF: _____

DATE OF BIRTH: _____

JUVENILE ID: _____

CCAP CASE #: _____

A request for temporary physical custody has been filed with the court. A hearing for temporary physical custody was held on _____, which is the effective date of this order. The juvenile was represented by: _____.

THE COURT FINDS the child/juvenile is in the jurisdiction of this court and probable cause exists to believe that the:

- ☐ 1. Juvenile will commit injury to person or property of others
- ☐ 2. Child/Juvenile will ☐ Cause injury to self ☐ Cause injury to others
- ☐ 3. Parent, guardian, legal custodian or other responsible adult is ☐ Neglecting ☐ Refusing ☐ Unable ☐ Unavailable to provide adequate supervision and care.
- ☐ 4. Child/Juvenile will run away or be taken away, making the child/juvenile unavailable for further court proceedings.
- ☐ 5. Child/juvenile is not subject to the federal Indian Child Welfare Act.
- ☐ 6. Parent has relinquished custody of the child.

For secure custody, the court further finds that probable cause exists to believe that:

- ☐ 1. The juvenile has committed a delinquent act and there is substantial risk of ☐ Physical harm to another ☐ Running away
- ☐ 2. The juvenile is a ☐ Fugitive from another state ☐ Runaway from a secure correctional facility and there has been no reasonable opportunity to return the juvenile.
- ☐ 3. A protective order has been issued and the child/juvenile consents in writing to the custody.
- ☐ 4. The child/juvenile has run away or committed a delinquent act while in non-secure custody.
- ☐ 5. The juvenile is alleged/adjudicated delinquent and is a runaway from another county and would run away from non-secure custody.
- ☐ 6. The juvenile is subject to adult criminal court jurisdiction and is under 15 years of age.

For secure custody in a jail, the court further finds that:

- ☐ 1. No other secure detention facility approved by DOC or the county is available.
- ☐ 2. The juvenile presents a substantial risk of physical harm to others in the secure detention facility.

For all custody outside of the home, the court further finds that:

- ☐ 1. Continuation of residence in the home at this time is contrary to the child's/juvenile's welfare because: _____

- ☐ 2. Reasonable efforts to prevent removal and return child/juvenile safely home were:

☐ Made by the department or agency responsible for providing services while on/in:

- ☐ Probation ☐ Deferred Prosecution Agreement ☐ JIPS Order ☐ CHIPS Order
- ☐ After Care **OR** ☐ Alternative Programming Considered and Not Appropriate

Specifically: _____

☐ Custody Intake screening process determined return home is inappropriate given seriousness of situation/offense

Specifically: _____

☐ Not required under 938.355(2d) because: _____

☐ Required, but good cause has been shown why sufficient information is not available to enable the court to make the necessary findings. This hearing is continued until (date): _____ (Not to exceed 5 days)

☐ Required, but the department or agency responsible for providing services failed to make reasonable efforts.

Juvenile's Name: _____

CCAP #: _____

- ☐ 3. As to the department or agency recommendation:
- ☐ The placement location recommended by the department or agency is adopted. OR
- ☐ After giving bona fide consideration to the recommendations of the department or agency and all parties, the placement location recommended is not adopted.

THE COURT ORDERS:

- ☐ 1a. The child/juvenile be
- ☐ held in temporary secure custody
- ☐ remain in temporary secure custody awaiting non-secure placement at: (include name and address of placement)
- ☐ Parental Home _____
- ☐ Relative Home _____
- ☐ Temporary Shelter _____
- ☐ Other _____
- ☐ 1b. The child/juvenile be held in temporary non-secure custody at: (include name and address of placement)
- ☐ Parental Home _____
- ☐ Relative Home _____
- ☐ Temporary Shelter _____
- ☐ Other _____

Special Delinquency Programs:☐ In-House☐ Level II**Under the Following Conditions:**

- ☐ Daily School Attendance
- ☐ Cooperate with Counseling
- ☐ No Passes
- ☐ Passes at Discretion of Intake Specialist/Probation Officer
- ☐ No Association with Victim(s)
- ☐ Obey Rules of the Home
- ☐ Curfew – 24 Hours Except School
- ☐ Curfew: _____ Weekdays; _____ Weekends
- ☐ No Association with Accomplices(s)
- ☐ No Further Violations Reaching Probable Cause
- ☐ Voluntary Inpatient at CATC
- ☐ Other: _____

The Child is Released to:

- ☐ Parent
- ☐ Child Welfare
- ☐ DJC
- ☐ Intake Specialist/Probation Officer
- ☐ Other: _____
- ☐ Relative
- ☐ Sheriff
- ☐ Self
- ☐ Shelter Staff

When:

- ☐ Upon Request
- ☐ Immediately

For:

- ☐ Home
- ☐ EAS / LHS / SOGS
- ☐ Temporary Shelter
- ☐ Other: _____

- ☐ 2. Other conditions of custody: _____
- ☐ 3. The parent(s)/guardian shall contribute toward the expenses of custody/services in the amount of:
- ☐ \$ _____
- ☐ to be determined by (agency): _____
- ☐ 4. The petition for temporary physical custody is denied.

NEXT HEARING: **Branch:** _____ **Date:** _____ **Time:** _____ AM / PM**Type:** ☐ Initial ☐ Status ☐ Plea/Disp ☐ Disp Placement ☐ Sentence ☐ Contest ☐ Other : _____

Probation Officer's / Intake Specialist's Signature: _____

Judge's/Commissioner's Signature: _____

Original – Court

Yellow – Placement Facility

Pink – Child/Juvenile/Parents/Attorneys
Addendum to CCAP Form JD-1711

Gold – Intake Worker/Probation Officer

Example

STATE OF WISCONSIN, CIRCUIT COURT-CHILDREN'S DIVISION

MILWAUKEE COUNTY CHILDREN'S COURT CENTER

ORDER FOR TEMPORARY PHYSICAL CUSTODY

IN THE INTEREST OF: JOHN Doe☒ SECURE☐ NON-SECUREDATE OF BIRTH: ##/##/##

JUVENILE ID: _____

CCAP CASE #: ## JV #####

A request for temporary physical custody has been filed with the court. A hearing for temporary physical custody was held on date, which is the effective date of this order. The juvenile was represented by: Attorney name.

THE COURT FINDS the child/juvenile is in the jurisdiction of this court and probable cause exists to believe that the:

- ☒ 1. Juvenile will commit injury to person or property of others
- ☐ 2. Child/Juvenile will ☐ Cause injury to self ☐ Cause injury to others
- ☒ 3. Parent, guardian, legal custodian or other responsible adult is ☐ Neglecting ☐ Refusing ☒ Unable ☐ Unavailable to provide adequate supervision and care.
- ☐ 4. Child/Juvenile will run away or be taken away, making the child/juvenile unavailable for further court proceedings.
- ☒ 5. Child/juvenile is not subject to the federal Indian Child Welfare Act.
- ☐ 6. Parent has relinquished custody of the child.

For secure custody, the court further finds that probable cause exists to believe that:

- ☒ 1. The juvenile has committed a delinquent act and there is substantial risk of ☐ Physical harm to another ☒ Running away
- ☐ 2. The juvenile is a ☐ Fugitive from another state ☐ Runaway from a secure correctional facility and there has been no reasonable opportunity to return the juvenile.
- ☐ 3. A protective order has been issued and the child/juvenile consents in writing to the custody.
- ☐ 4. The child/juvenile has run away or committed a delinquent act while in non-secure custody.
- ☐ 5. The juvenile is alleged/adjudicated delinquent and is a runaway from another county and would run away from non-secure custody.
- ☐ 6. The juvenile is subject to adult criminal court jurisdiction and is under 15 years of age.

For secure custody in a jail, the court further finds that:

- ☐ 1. No other secure detention facility approved by DOC or the county is available.
- ☐ 2. The juvenile presents a substantial risk of physical harm to others in the secure detention facility.

For all custody outside of the home, the court further finds that:

- ☒ 1. Continuation of residence in the home at this time is contrary to the child's/juvenile's welfare because:

Ongoing tx needs; new delinquency

- ☒ 2. Reasonable efforts to prevent removal and return child/juvenile safely home were:

☐ Made by the department or agency responsible for providing services while on/in:

☐ Probation ☐ Deferred Prosecution Agreement ☐ JIPS Order ☐ CHIPS Order

☐ After Care OR ☐ Alternative Programming Considered and Not Appropriate

Specifically: DOC - (include all placements) ie: EAS, NORRIS, Home, MJTC

☐ Custody Intake screening process determined return home is inappropriate given seriousness of situation/offense

Specifically: _____

☐ Not required under 938.355(2d) because: _____

☐ Required, but good cause has been shown why sufficient information is not available to enable the court to make the necessary findings. This hearing is continued until (date): _____ (Not to exceed 5 days)

☐ Required, but the department or agency responsible for providing services failed to make reasonable efforts.

Example

Juvenile's Name: JOHN DOECCAP #: ## JV #####

3. As to the department or agency recommendation:

- ☒ The placement location recommended by the department or agency is adopted. OR
☐ After giving bona fide consideration to the recommendations of the department or agency and all parties, the placement location recommended is not adopted.

THE COURT ORDERS:

☒ 1a. The child/juvenile be

- ☒ held in temporary secure custody
☐ remain in temporary secure custody awaiting non-secure placement at: (include name and address of placement)
☐ Parental Home _____
☐ Relative Home _____
☐ Temporary Shelter _____
☐ Other _____

☐ 1b. The child/juvenile be held in temporary non-secure custody at: (include name and address of placement)

- ☐ Parental Home _____
☐ Relative Home _____
☐ Temporary Shelter _____
☐ Other _____

Special Delinquency Programs:

☐ In-House☐ Level II

Under the Following Conditions:

- ☐ Daily School Attendance
☐ Cooperate with Counseling
☐ No Passes
☐ Passes at Discretion of Intake Specialist/Probation Officer
☐ No Association with Victim(s)
☐ Obey Rules of the Home
☐ Curfew - 24 Hours Except School
☐ Curfew: _____ Weekdays; _____ Weekends
☐ No Association with Accomplices(s)
☐ No Further Violations Reaching Probable Cause
☐ Voluntary Inpatient at CATC
☐ Other: _____

The Child is Released to:

- ☐ Parent
☐ Child Welfare
☒ DJC
☐ Intake Specialist/Probation Officer
☐ Other: _____
☐ Relative
☒ Sheriff
☐ Self
☐ Shelter Staff

When:

- ☒ Upon Request
☐ Immediately

For:

- ☐ Home
☒ EAS / LHS / SOGS
☐ Temporary Shelter
☐ Other: _____

☐ 2. Other conditions of custody: _____☐ 3. The parent(s)/guardian shall contribute toward the expenses of custody/services in the amount of:

- ☐ \$ _____
☐ to be determined by (agency): _____

☐ 4. The petition for temporary physical custody is denied.

*NEXT HEARING: Branch: ## *Date: _____ *Time: _____ AM / PM
 Type: ☐ Initial ☒ Status ☐ Plea/Disp ☐ Disp Placement ☐ Sentence ☐ Contest ☐ Other: _____

Probation Officer's / Intake Specialist's Signature: Name of Worker

Name

Date

Judge's/Commissioner's Signature: _____

Name

Branch

Date

SAMPLE DISPOSITIONAL REPORT FOR NEW CHARGE

Use Appropriate DJC Letterhead

DATE: October, 15, 2011

TO: Michelle Glover-Court Liaison
10201 W. Watertown Plank Road
Milwaukee, WI 53226

FROM: Social Worker/Agent's Name
Address

YOUTH'S NAME: Joe Jones DOB: 12/01/1995
ADDRESS: Lincoln Hills School
W4380 Copper Lake Avenue
Irma, WI 54442-9720

PARENT'S NAME:	Jan Jones (mother)	Jack Jones (father)
	900 W. Wisconsin Ave.	100 S. 1 st St.
	Milwaukee, WI 532XX	Milwaukee, WI 532XX

Court Case: 11JVXXXXXX (case pending in court-not original committing case number.)

Court Date: 12/13/2011 in Br. 14

SUBJECT: DISPOSITIONAL REPORT

Social History

On 8/3/2010, Joe Jones appeared before the Honorable Judge Christopher Foley at which time was adjudicated delinquent for the offense of Possession of a Controlled Substance-Marijuana, contrary to sections 961.14(4)(t), 961.10(14), and 961.41(3g)(e) of the Wisconsin State Statutes. On this date, the Court ordered placement with the Department of Corrections for a period to expire on 11/30/2011. The Court further ordered physical placement at Lincoln Hills School, \$20 victim/witness surcharge, and recommended an AODA program.

Prior Court Contacts/Services: Mr. Jones was referred to Milwaukee Children's Court for CHIPS, D/C , Retail Theft (3 cnts), Battery(2cnts), and numerous sanctions for violations of court orders. Prior services offered included: temporary shelter, relative placement, Wraparound, St. Charles, AODA counseling, and anger management.

Mr. Jones was originally received at Lincoln Hills School (LHS) on 8/4/2010. At the time of his initial Joint Planning Review Conference (JPRC) on 8/25/2010, it was determined that Mr. Jones should be afforded the opportunity to participate in the Cadet Achievement Program (CAP) offered at LHS. Aftercare planning should include an alternate care placement that would focus on AODA issues. Parties felt that the CAP would allow Mr. Jones the opportunity to address treatment issues, yet earn a release back into the community fairly quickly.

Unfortunately, Mr. Jones did not take advantage of the opportunity afforded him, and was removed from the program after several incidents, including threats to staff, disruptive behavior, and group resistance which resulted in three separate security stays. Subsequently, Mr. Jones

was transferred out of the CAP into the Black Elk Cottage Program so that he could participate in the Juvenile Cognitive Intervention Program (JCIP). The JCIP is designed to treat high-risk offenders who demonstrate limited awareness of their problems and evidence little or no motivation to change. Mr. Jones began Phase 1 of the CIP on 9/6/2010. Although he was able to complete the first phase, he struggled with the 2nd Phase. Although there were no reported security stays while attempting to complete JCIP, Mr. Jones acquired the maximum amount of room confinement hours allowed before actual placement in a security unit. Behaviors included talking out the window, horse play, and disrespect. Mr. Jones did complete JCIP on 11/22/2010. In addition, Mr. Jones paid in full the court ordered \$20 victim/witness surcharge.

Upon successful completion of the JCIP program and transition phase activities, Mr. Jones was administratively transferred to St. Charles Residential on 1/10/2011. Immediately upon placement, Mr. Jones began to struggle with the rules of placement. On 1/14/2011, Mr. Jones was sanctioned for three days due to returning late from school and arguing with a peer. Mr. Jones was afforded an additional opportunity to return to St. Charles, with a stern warning that he needed to take his release seriously and meet expectations of the facility. Upon release back to St. Charles, Mr. Jones was allowed a phone call to his father, who had intended to bring him additional clothes and hygiene products. After a few minutes on the phone, Mr. Jones became agitated and began yelling at his father, calling him several obscenities. Mr. Jones slammed the phone down and left the facility after a struggle with staff who were attempting to calm him down. An Apprehension Request was issued.

On 1/30/2011, Mr. Jones was apprehended by the Milwaukee Police Department on the apprehension request when he was pulled over for a traffic stop. When Officers attempted to question Mr. Jones, he allegedly fled the car on foot. Police pursued Mr. Jones through several city blocks, until eventually apprehending him. During the apprehension a struggle ensued and Mr. Jones struck one officer in the jaw. Mr. Jones appears before the Court on this matter.

Plan of Rehabilitation

As Mr. Jones showed little compliance immediately upon his return to the community, and with the new pending charges, he will be administratively transferred back to LHS. Once the permanent return is finalized, an initial JPRC will be scheduled with in approximately 21 days. The recommended plan is to retain Mr. Jones at LHS. Treatment should focus on anger management and decision making skills. A referral will be made to clinical services to determine possible need for medication, and address family issues and anger management. Although Mr. Jones had completed the JCIP program and earned a release to the community, he showed that he was not ready for the opportunity. His interaction with his father sparked a great deal of anger, which he chose to deal with by absconding. Mr. Jones would benefit from a future transition back into the community through the use of an alternate care facility with an emphasis on family counseling. Eventual return to father's home is imminent as mother's home has been deemed inappropriate by the Bureau of Milwaukee Child Welfare. Father has maintained contact with the supervising agent and the assigned social worker during Mr. Jones' placement with the Department. Father has also suggested that placement in his home may best be served with the assistance of the Corrective Sanctions Program.

Specific Services

Upon Mr. Jones' readjustment to LHS and cooperation with a referral to clinical services, he may best be served with a placement in the 8-week JCIP repeater's group and another try at the 120-day PRIDE program. By a lengthy placement in CAP, he will have to show for an extended period of time a readiness to return to the community. How he handles the program may very well be indicative of how he will handle challenging situations once in the community. A

transitional placement (3-4 months) before returning home would be suggested. Aftercare once at home should be approximately 3-6 months.

Objectives

The following objectives will be recommended for Mr. Jones with his return to LHS:

- Show achievement in your educational/vocational program by working to your fullest potential.
- Learn how to identify and express my feelings appropriately and honestly.
- Develop good decision-making and problem solving skills.
- Display a positive attitude and accept personal responsibility for all of your actions.
- Develop positive relationships with peers, authority figures, and other adults.

Plan For Recommended Services

It is respectfully requested that the court adopt the following recommendations:

- That Mr. Jones be placed with the Department of Correction, Division of Juvenile Corrections with placement at Lincoln Hills School for Boys for a period to expire the day before his 17th birthday, 12/01/2012. Such an order would allow the Department to request an extension based on needs at that time.
- That he be required to actively participate in counseling and other programs deemed appropriate by the Division of Juvenile Corrections.
- That Mr. Jones be required to write an apology to the officer who was struck in the struggle during the apprehension.

Respectfully submitted,

Social Worker/Agent
LHS/CLS/MJTC/DJC-Field